

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 16-cr-20654

Hon. Mark A. Goldsmith

vs.

PHILLIP MCINTYRE,

Defendant.

**ORDER FINDING WAIVER AND DIRECTING RESPONSE TO DEFENDANT'S  
MOTION TO VACATE SENTENCE (Dkt. 46)**

Defendant Phillip McIntyre filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255 (Dkt. 46). This Court issued an order advising McIntyre that if he chose not to withdraw his claim based on the ineffective assistance of counsel, the Court would recognize that McIntyre had waived the attorney-client privilege and the work-product privilege to the extent necessary to litigate his claim. See 9/6/2018 Order (Dkt. 55).

More than thirty days have passed since the entry of the Court's order, and McIntyre has not withdrawn his claim. Therefore, the Court finds that McIntyre has waived the attorney-client privilege to the extent necessary to litigate his claim. The Court further orders that McIntyre's trial attorney, Kimberly Stout, provide testimony and all documents and communications with McIntyre relating to plea negotiations and investigation of the case, the merits of the Government's case and any defenses.

The Government shall respond to McIntyre's motion to vacate his sentence (Dkt. 46) no later than December 17, 2018.

SO ORDERED.

Dated: October 17, 2018  
Detroit, Michigan

s/Mark A. Goldsmith  
MARK A. GOLDSMITH  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 17, 2018.

s/Karri Sandusky  
Case Manager